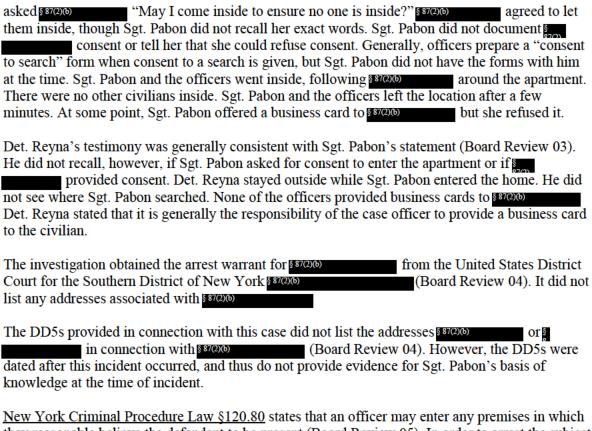
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force		Discourt.	U.S.
Emily Devaney		Squad #04	202201246	☑	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident	:		18 N	Mo. SO	OL	Precinct:
Wednesday, 02/16/2022 6 Wednesday, 02/16/2022 6		§ 87(2)(6) Yonkers, NY	in		8/1	16/202	23	41
Date/Time CV Reported		CV Reported At:	How CV Reported	1:	Date/Tin	ie Reco	eived at CC	RB
Mon, 02/28/2022 2:42 PM	1	CCRB	Call Processing System		Mon, 02/	28/202	22 2:42 PM	[
Complainant/Victim	Туре	Home Add	lress					
Subject Officer(s)	Shield	TaxID	Command					
1. SGT David Pabon	00128	939158	NARCBBX					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. DT3 Jose Reyna	07384	942422	NARCBBX					
Officer(s)	Allegatio	on			Inv	estiga	ator Recor	nmendation
A . SGT David Pabon	Abuse: S Bronx.	Abuse: Sergeant David Pabon entered \$87(2)(b) in the Bronx.						
B . SGT David Pabon	Abuse: S Bronx.	Abuse: Sergeant David Pabon searched [\$87(2)(6)] in the Bronx.						
C . SGT David Pabon	Abuse: S	Abuse: Sergeant David Pabon failed to provide \$87(2)(b) with a business card.						
D . SGT David Pabon	Abuse: S Yonkers,	ergeant David Pabon NY.	entered § 87(2)(b)	in				
E . SGT David Pabon		Abuse: Sergeant David Pabon searched \$\frac{\\$ \\$7(2)(0)}{\} in Yonkers, NY.						
F . SGT David Pabon	Abuse: S	ergeant David Pabon with a business card	failed to provide § 87(2) l.	(b)				
§ 87(2)(g), § 87(4-b)		-						
§ 87(2)(g), § 87(4-b)								

Case Summary

On February 28, 2022, 887000 filed this complaint with the CCRB Call Processing System.
On February 16, 2022, at approximately 6:00 a.m., Sergeant David Pabon entered and searched house on strong in the Bronx along with additional officers from Bronx Narcotics (Allegations A-B: Abuse of Authority, strong with a business card (Allegation C: Abuse of Authority, strong home at strong with a business card (Allegation C: Abuse of Authority, strong home at strong with a business card (Allegation C: Abuse of Authority, Strong Sgt. Pabon failed to provide strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority, strong with a business card (Allegation F: Abuse of Authority).
§ 87(2)(g), § 87(4-b)
No arrests or summonses resulted from this incident.
The investigation did not obtain any body-worn camera videos given that Bronx Narcotics officers are not equipped with them. provided security camera footage of the officers entering (Board Review 09).
Findings and Recommendations Allegation (A) Abuse of Authority: Sergeant David Pabon entered [887(2)(b)] in the
Allegation (A) Abuse of Authority: Sergeant David Pabon entered \$\frac{\\$\sigma(2)\Bo}{\\$\sigma(2)\Bo}\$ in the Bronx. Allegation (B) Abuse of Authority: Sergeant David Pabon searched \$\frac{\\$\sigma(2)\Bo}{\\$\sigma(2)\Bo}\$ in the Bronx. Allegation (C) Abuse of Authority: Sergeant David Pabon failed to provide \$\frac{\\$\sigma(2)\Bo}{\\$\sigma(2)\Bo}\$ with a business card. \$\frac{\\$\\$\sigma(2)\Bo}{\\$\sigma(2)\Bo}\$ testified that she received message from her tenant, \$\frac{\\$\\$\sigma(2)\Bo}{\\$\sigma(2)\Bo}\$ who lived in the \$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$
The investigation was unable to obtain a statement from \$87(2)(6)
Sgt. Pabon testified that he was responsible for supervising a team of five or six Bronx Narcotics officers to apprehend in accordance with a federal arrest warrant (Board Review 02). Sgt. Pabon was not involved in the investigation into second with the arrest warrant and two of second was Bronx Narcotics Detective Joseph Ierna, who provided Sgt. Pabon with the arrest warrant and two of second was addresses. One of the addresses was second warrant for any of the addresses. Det. Ierna was not part of Sgt. Pabon's team and was not a witness on this date.
Sgt. Pabon and his team of officers, including Detective Jose Reyna, visited the first address at an arrest warrant for so, and Sgt. Pabon told her they had an arrest warrant for so, and that so, and the so, and t

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New York Criminal Procedure Law §120.80 states that an officer may enter any premises in which they reasonable believe the defendant to be present (Board Review 05). In order to arrest the subject of an arrest warrant inside a third-party residence, an officer must obtain a search warrant authorizing such entry into the premises.

People v. Gonzalez, 39 N.Y.2d 122, found that officers may enter and search a premises if voluntary and unconstrained consent has been given for the officers to enter and search (Board Review 06). The court posited that, when determining the voluntariness of consent, one should consider whether the officers informed the individual of their right to refuse consent.

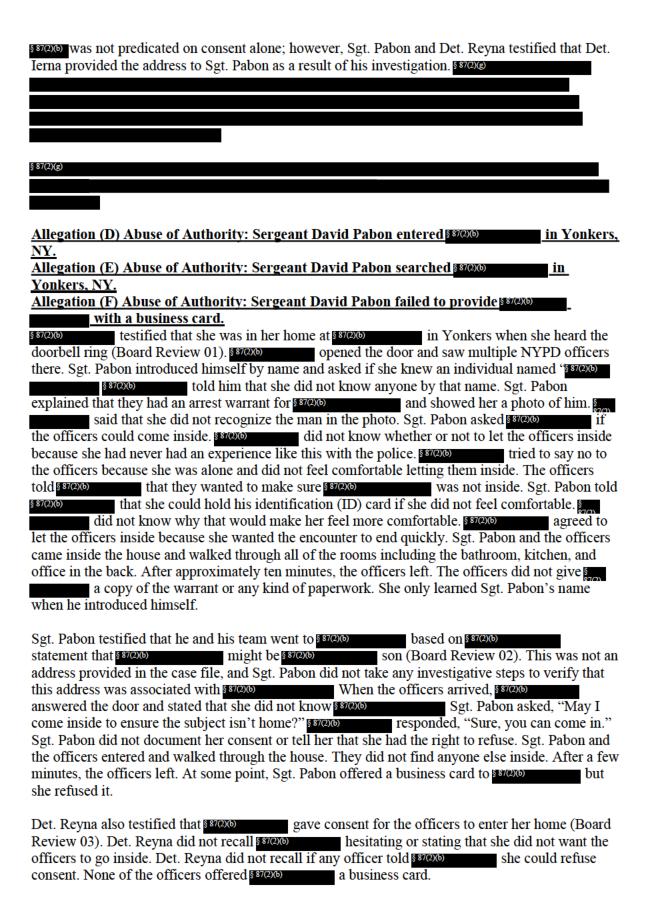
When an officer is seeking consent to search a person or their home, <u>New York City Administrative</u> <u>Code §14-173</u> requires that the officer do so by:

- (a)(1) "Articulating, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such person refuses to provide consent to such search;"
- (a)(3) "Affirming that such person understands the information communicated pursuant to paragraph 1;" and
- (a)(4) "Refraining from conducting such search where such consent has not been obtained" (Board Review 07).

According to New York City Administrative Code §14-174, officers are required to offer a business card to the person who is the subject of a search of person or property (Board Review 08).

§ 87(2)(g)	
	Sgt. Pabon's search of § 87(2)(0)

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The video from security camera showed this interaction beginning at the 1:54 minute-mark of the player's timestamp (Board Review 09). Sgt. Pabon and Det. Reyna introduced themselves and showed security camera showed 09). Sgt. Pabon and Det. Reyna introduced themselves and showed the arrest warrant for security camera showed 09). Sgt. Pabon and Det. Reyna introduced themselves and showed 1870/00 told them she did not recognize him by name or photo. At 3:50, Sgt. Pabon said, "Do you mind if we just look around the home, make sure he's not here?" 1870/00 replied, "In here? I'm by myself though." Sgt. Pabon and Det. Reyna offered for 1870/00 to hold their identification (ID) cards. At 4:25, 1870/00 said something partially unintelligible, "I don't want [unknown]," before saying, "You can come in." The officers entered the home. At no point did Sgt. Pabon tell 1870/00 she had the right to refuse consent. At 8:18, the officers exited the house. It was not captured whether Sgt. Pabon offered 1870/00 a business card.
As noted above, <u>New York Criminal Procedure Law §120.80</u> states that in order to arrest the subject of an arrest warrant inside a third-party residence, an officer must obtain a search warrant authorizing such entry into the premises (Board Review 05).
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The evidence showed that Sgt. Pabon did not inform that she could refuse consent for the officers to search the premises.
Although Sgt. Pabon asserted that he offered \$87000 a business card, Det. Reyna stated that no officer offered \$87000 a card. \$87000
§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)			
This is the fitSgt. Pabon h	rst CCRB complaint to which rst CCRB complaint to which as been a member of services		
As of Januar sent to the N	o22, this case was sent to m as strong decided s y 26, 2023, a request for all ew York City Office of the	il, and Criminal Histories ediation, and on June 2, 2022, the she wanted an investigation instead to the comparison of claim filed in regard to the comparison of comparison of the comparison o	ad. o this incident was
receipt (Boai	rd Review 14). 0&(4)] [§ 87(2)(6)]		
Squad: 4			
	Suix		
Investigator: _	Signature S	Inv. Devaney Print Title & Name	02/09/2023 Date
Squad Leader: _	Raquel Velasquez	IM Raquel Velasquez Print Title & Name	02/09/2023
n :	Signature	rimit fine & Name	Date
Reviewer:	Signature	Print Title & Name	Date Date